

**LEWIS  
AND  
ROCA**  
LLP  
LAWYERS

E-Filed on 4/28/09

3993 Howard Hughes Parkway, Suite 600  
Las Vegas, NV 89169-5996  
Facsimile (702) 949-8321  
Telephone (702) 949-8320

Rob Charles NV State Bar No. 006593  
Email: rcharles@lrlaw.com  
John Hinderaker AZ State Bar No. 018024  
Email: jhinderaker@lrlaw.com

Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,<sup>1</sup>

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,<sup>2</sup>

USA SECURITIES, LLC,<sup>3</sup>  
Debtors.

**Affects:**

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR<sup>1</sup>  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR<sup>2</sup>  
Case No. BK-S-06-10729-LBR<sup>3</sup>

**CHAPTER 11**

Jointly Administered Under Case No. BK-S-06-10725 LBR

**APPLICATION FOR ORDER TO  
SHOW CAUSE WHY OBJECTION TO  
LERIN HILLS PROOF OF CLAIM  
SHOULD NOT BE SUSTAINED**

Hearing Date: June 12, 2009

Hearing Time: 9:30 a.m.

The USACM Liquidating Trust (the "USACM Trust") respectfully requests that the Court enter an order requiring Lerin Hills Ltd to appear and show cause why the USACM Trust's Objection to Proof of Claim 10725-01279 should not be sustained because Lerin

<sup>1</sup> This bankruptcy case was closed on September 23, 2008.

<sup>2</sup> This bankruptcy case was closed on October 12, 2007.

<sup>3</sup> This bankruptcy case was closed on December 21, 2007.

Hills is no longer represented by counsel. This Application is supported by the following Memorandum of Points and Authorities and the Court record.

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is appropriate under 28 U.S.C. §§ 1408 and 1409.

2. This matter is a core proceeding under 28 U.S.C. § 157(b)(2)(A) and (O).

**BACKGROUND**

3. On April 13, 2006 (the “Petition Date”), USA Commercial Mortgage Company, USA Capital Realty Advisors, LLC, USA Capital Diversified Trust Deed Fund, LLC, USA Capital First Trust Deed Fund, LLC, and USA Securities, LLC (collectively, the “Debtors”) filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Debtors’ Third Amended Joint Chapter 11 Plan of Reorganization became effective on March 12, 2007 (the “Effective Date”), and the USACM Trust succeeded to certain claims and causes of action held by USACM.

4. In connection with its investigation of such claims and causes of action, the Trust has filed objections to claims filed by various parties.

5. On March 13, 2007, The USACM Trust filed an Objection of the USACM Liquidating Trust to Proof of Claim Filed By Lerin Hills Ltd. (“Lerin Hills”) (the “Objection”) (Claim No. 1279) [DE 3080].

6. On March 13, 2007, the USACM Trust served the Objection on Lerin Hills.

7. On June 6, 2007, Lerin Hills filed a Reply to Objection of the USACM Liquidating Trust to Proof of Claim Filed by Lerin Hills LTD (Claim No. 203 & 1279) [DE 3904]

8. On May 21, 2008, the USACM Trust filed a Notice of Status Conference Regarding Lerin Hills’ Claim 1279 [DE 6412].

9. On February 3, 2009 the hearing was continued to February 20, 2009 and is currently scheduled for hearing May 18, 2009.

10. On February 19, 2009 a Motion to Withdraw as Attorney of Record for Lerin Hills [DE 6939] was filed by Marjorie A. Guyman.

11. The Motion to Withdraw came before the Court for hearing on April 10, 2009. No objections were filed and the Motion was granted. The Order has not been entered by the Court.

### **POINTS AND AUTHORITIES**

1. Corporations and partnerships must prosecute their case through an attorney. *Rowland v. California Men's Colony*, 506 U.S. 194, 201 (1993), *Licht v. American West Airlines, Inc. (In re American West Airlines, Inc.)*, 164 B.R. 315, 317 (9<sup>th</sup> Cir. Bankr. 1994). Lerin Hills cannot prosecute its own case and is no longer represented by legal counsel who can. Accordingly, the Court should order Lerin Hills to appear and show cause why the USACM Trust's Objection should not be sustained.

### **CONCLUSION**

For all of the foregoing reasons, the USACM Trust respectfully requests that this Court enter the proposed form of order provided herewith, which will require Lerin Hills to appear for an order to show cause on June 12, 2009 at 9:30 a.m.

DATED: April 28, 2009.

**LEWIS AND ROCA LLP**

By: /s/ JH (#018024)

Rob Charles, NV 6593

John Hinderaker, AZ 018024

3993 Howard Hughes Parkway, Suite 600

Las Vegas, Nevada 89169-5996

*Counsel for USACM Liquidating Trust*

LEWIS  
AND  
ROCA  
LLP  
LAWYERS

PROOF OF SERVICE

Copy of the foregoing mailed by First  
Class, U.S. Mail, postage prepaid, on  
April 28, 2009 to the following parties:

Lerin Hills, Ltd.  
630 Trade Center Drive  
Las Vegas, Nevada 89119

/s/ Carrie Lawrence  
Carrie Lawrence